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5 *Attorneys for Defendants*

6 **DOUGLAS GILLESPIE, CLARK COUNTY
DETENTION CENTER and KATHRYN BUSSELL**

7 UNITED STATES DISTRICT COURT

8 DISTRICT OF NEVADA

9 JAD

10 GILBERTO CARRILLO, JR.,

11 Plaintiff, Case No.: 2:12-cv-02165-~~JCM~~-VCF
vs.

12 SGT. K. BUSSELL, LVMPD; CLARK
13 COUNTY DETENTION CTR.; R.
CHRISTOPHERSON, LVMPD; DWAIN
COTWRIGHT, HDSP; LVMPD NURSE
14 "DARLYL"; RAUL DIAZ, HDSP; J. FERRY,
LVMPD; CLARK COUNTY SHERIFF D.
15 GILLESPIE; SGT. FRANCIS J. KIM, HDSP;
NDOC thru HDSP D. NEVEN; SGT. QUINN,
16 HDSP; M. RAZO, LVMP; A. RITZ, et al.,

17 Defendants.

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19 DEFENDANTS' MOTION TO EXTEND
DISPOSITIVE MOTION DEADLINE

(2nd Request)

(EMERGENCY EXPEDITED REQUEST)

Defendants SHERIFF DOUGLAS C. GILLESPIE ("Gillespie"), Clark County Detention Center ("CCDC") and Kathryn Bussell ("Bussell" and collectively, "Defendants") by and through their counsel, Kaempfer Crowell, hereby move for an Order extending the deadlines for filing dispositive motions and the joint pre-trial order in this matter. This is Defendants' second request for an extension of the dispositive motion deadline¹. This Motion is based on Federal

1 This Court has not yet ruled on the pending Motions to Dismiss since the Court granted Defendants' first request to extend the dispositive motion deadline.

1 Rule of Civil Procedure 26 and Local Rule 26-4, the pleadings and papers on file herein, the
2 following memorandum of points and authorities and any such oral argument as may be set.

3 DATED this 24th day of February 2014.

4 KAEMPFER CROWELL

5 BY:

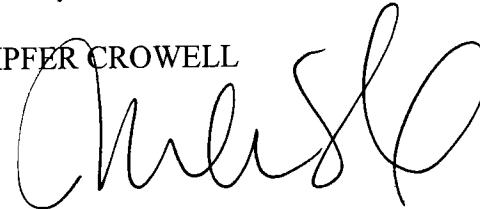
6 LYSSA S. ANDERSON (Nevada Bar No. 5781)

7 8345 West Sunset Road, Suite 250

8 Las Vegas, Nevada 89113

9 *Attorneys for Defendants*

10 **DOUGLAS GILLESPIE, CLARK COUNTY
DETENTION CENTER and KATHRYN BUSSELL**



11 **MEMORANDUM OF POINTS AND AUTHORITIES**

12 **I. PROCEDURAL HISTORY**

13 In the interest of brevity, Defendants refer to the Procedural History set forth in
14 Defendants' Motion to Extend Dispositive Motion Deadline (1st Request) filed on December 18,
15 2013, [Docket No. 127], as if fully incorporated herein.

16 Since the filing of Defendants' Motion to Extend Dispositive Motion Deadline, [Docket
17 No. 127], this Court entered an Order on January 2, 2014 denying Plaintiff's Motion to Extend
18 Discovery, [Docket No. 122], and extending the dispositive motion deadline pursuant to
19 Defendants' Motion, [Docket No. 127], to March 2, 2013. To date, the Court has not yet ruled
20 on the pending Motions to Dismiss cited in the Court's January 2, 2014 Order, [Docket Nos. 63
21 and 92]. As the deadline is fast approaching, emergency expedited review of this Motion is
22 requested.

23 **II. AN EXTENSION IS WARRANTED.**

24 Good cause is shown for this extension. As set out in the Procedural History of the prior
to Motion to Extend Dispositive Motion Deadline, two (2) of the three (3) Defendants seeking to

1 extend the deadline have pending Motions to Dismiss. It is anticipated that once the Court rules
 2 on the Motions to Dismiss, the breadth of dispositive motions will be significantly lessened. As
 3 the Court has not yet ruled on the Motions to Dismiss, Defendants respectfully request that the
 4 deadline be further extended to enable the Court time to consider the matters pending.

5 **III. DISCOVERY.**

6 **1. Discovery Completed To Date.**

7 Defendants have concluded all discovery in this matter. Moreover, pursuant to this
 8 Court's January 2, 2014 Order, no further extensions of discovery will be granted. Therefore,
 9 discovery closed on December 3, 2013.

10 **2. Discovery To Be Completed.**

11 None.

12 **3. Reasons Why Discovery Incomplete.**

13 As set out herein, Defendants seek an extension of the deadline for filing dispositive
 14 motions and the pre-trial order. This is to allow the Court to enter its rulings on the pending
 15 Motions to Dismiss. The Court has not ruled on the Motions to Dismiss since the deadline to file
 16 dispositive motions was last extended by this Court. Upon the same basis as set out in
 17 Defendant's first request to extend dispositive motions, granting this request is in the interest of
 18 the parties and this Court.

19 Lastly, Defendants recognize that they are requesting an additional brief extension for
 20 filing dispositive motions prior to the twenty-one (21) day deadline as set forth in LR 26-4.
 21 Defendants submit that excusable neglect exists to permit granting the instant requested
 22 extension. In evaluating excusable neglect, the court considers the following factors: (1) the
 23 reason for the delay and whether it was in the reasonable control of the moving party, (2)
 24 whether the moving party acted in good faith, (3) the length of the delay and its potential impact

1 on the proceedings, and (4) the danger of prejudice to the nonmoving party. See Pioneer Inv.
 2 Servs. Co. v. Brunswick Assocs., 507 U.S. 380, 395 S. Ct. 1489, 123 L.Ed.2d 74 (1993).
 3 Defendants anticipated that the Court would have made a ruling on the Motions to Dismiss prior
 4 to the extended deadline to file dispositive motions had expired. As the Court has not yet ruled
 5 on the Motions to Dismiss, excusable neglect exists.

6 **4. Proposed Dates.**

7 Defendants request that the Scheduling Order be amended to reflect the following²:

<u>Activity</u>	<u>Current Date</u>	<u>Proposed Date</u>
Dispositive Motions	March 2, 2014	May 1, 2014
Proposed Joint Pretrial Order	April 3, 2014	June 2, 2014

11 **IV. CONCLUSION**

12 Defendants are not attempting to delay the conclusion of this matter by way of trial or
 13 otherwise; rather they are attempting to alleviate any unnecessary time and expense of the parties
 14 and this Court in preparing dispositive motions which contain issues likely resolved by way of a
 15 ruling on the pending Motions to Dismiss. No trial date has yet been ordered.

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 24 ² Defendants seek an additional sixty (60) days herein, or at a time ordered by this Court in line with a decision on
 the pending Motions to Dismiss.

1 For the reasons stated herein, Defendants submit that excusable neglect has been set forth
2 in demonstrating Defendants' untimely request.

3 DATED this 24th day of February, 2014.

4 KAEMPFER CROWELL

5 BY:

6 LYSSA S. ANDERSON (Nevada Bar No. 5781)
7 8345 West Sunset Road, Suite 250

8 Las Vegas, Nevada 89113

9 *Attorneys for Defendants*

10 **DOUGLAS GILLESPIE, CLARK COUNTY
DETENTION CENTER and KATHRYN BUSSELL**

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13 IT IS SO ORDERED.
14

15 *Caron Renshaw*

16 **UNITED STATES MAGISTRATE JUDGE**

17 DATED: 2-28-2014

CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing **DEFENDANTS' MOTION TO EXTEND DISPOSITIVE MOTION DEADLINE (2nd Request)** as made this date by depositing a true copy of the same for mailing at Clark County, Nevada, addressed to each of the following:

6 Gilberto Carrillo
76681 ESP
7 PO Box 1989
Ely, NV 89301

9 Mercedes Menendez, Esq.
555 E. Washington Ave., Suite #3900
Las Vegas, NV 89101

DATED this 24th day of February, 2014.

W. Kappeler
an employee of Kaempfer Crowell